

Attorneys for Defendant Robert Pruett, Trustee of the SAS 2007 Trust, and
Trustee of the CGS 2007 Trust

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re:)
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)
)
SK FOODS, L.P., a California limited)
)
partnership, et al.,)
)
Debtors.)
)
BRADLEY D.SHARP, Trustee)
)
Plaintiff,)
)
v.)
)
)
ROBERT PRUETT, TRUSTEE OF THE)
SAS 2007 TRUST, AND TRUSTEE OF)
THE CGS 2007 TRUST)
)
Defendant.)

CASE NO. 09-29162-D-11

CHAPTER 11

ADVERSARY NO.: 11-2550-D

DCN. SH-12

ANSWER BY ROBERT PRUETT,
TRUSTEE, TO COMPLAINT SEEKING
PROCEEDS OF SALE AT 4000
WESTLAKE BOULEVARD, #14, HOME
WOOD, CALIFORNIA 96141 FREE AND
CLEAR OF ANY CLAIMS OR
INTERESTS OF THE SALYER
DAUGHTER'S TRUSTS

DEMAND FOR JURY TRIAL

Judge: Hon. Robert S. Bardwill

Robert Pruett, Trustee of the CGS 2007 Trust and the SAS 2007 Trust (the “Trusts”)
answers the deemed adversary complaint as follows:

1. Admits that this court has jurisdiction over this matter and that venue is proper.
2. Because the plaintiff's motion was converted into and treated as an adversary complaint, Defendant Pruett does not have before him an actual complaint in which specific

1 allegations are made, and therefore cannot respond to allegations paragraph by paragraph.
2 Without knowledge of specific allegations, he is without information and belief of each allegation,
3 and based upon lack of information and belief, denies all allegations.

4 3. If the Motion Authorizing Turnover Of Proceeds Of Sale Of Certain Real Property
5 Located At 4000 Westlake Boulevard, #14, Homewood, California 96141 Free and Clear Of Any
6 Claims Of Interests Of The Salyer Daughters' Trusts is taken to be the complaint, then
7 Defendant Pruett based upon lack of information and belief, denies all allegations of the
8 following paragraphs: 1, 3, 4, 5, 7, 10, and 14.

9 4. If the Motion Authorizing Turnover Of Proceeds Of Sale Of Certain Real Property
10 Located At 4000 Westlake Boulevard, #14, Homewood, California 96141 Free and Clear Of Any
11 Claims Of Interests Of The Salyer Daughters' Trusts is taken to be the complaint, then
12 Defendant Pruett admits the allegations of the following paragraphs: 2, 6, 9, 11, 13, 15, and 16.

13 5. If the Motion Authorizing Turnover Of Proceeds Of Sale Of Certain Real Property
14 Located At 4000 Westlake Boulevard, #14, Homewood, California 96141 Free and Clear Of Any
15 Claims Of Interests Of The Salyer Daughters' Trusts is taken to be the complaint, then
16 Defendant Pruett denies the allegations of paragraphs 8 and 12.

17 FIRST AFFIRMATIVE DEFENSE

18 As a First, separate and distinct affirmative defense, this answering Defendant alleges
19 that Plaintiff's complaint fails to state facts sufficient to constitute any cause of action.

20 SECOND AFFIRMATIVE DEFENSE

21 As a Second, separate and distinct affirmative defense, this answering Defendant alleges
22 that the relief sought by Plaintiff is not the real party in interest and therefore has no standing
23 to assert the claims made.

24 THIRD AFFIRMATIVE DEFENSE

25 As a Third, separate and distinct affirmative defense, this answering Defendant alleges
26 that the Bank of Montreal obtained the agreements and rights which are the basis of the rights
27 asserted based upon unconscionable threats and duress, as a result of which they are void or
28 voidable.

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2 FOURTH AFFIRMATIVE DEFENSE

3 As a Fourth, separate and distinct affirmative defense, this answering Defendant alleges
4 that the settlement agreement upon which the plaintiff bases its claim to be entitled to
5 distribute the proceeds free and clear of claims is no longer in effect, and therefore there is no
6 right to the distribution requested.

7 WHEREFORE, Defendant prays that the Trustee take nothing by its Complaint, for
8 judgment in Defendant's favor, for an award of costs, and that the Court grant such other and
9 further relief as is proper.

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12 Defendant demands a jury trial.

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15 DATED: August 22, 2011

16 Respectfully submitted,
17 Richard S. E. Johns
18 Law Offices of Richard S. E. Johns
19 57 Post Street, Suite 604
20 San Francisco, California 94104
21 (415) 781-8494

22 /s/ Richard S. E. Johns
23 Richard S. E. Johns
24 Attorneys for Robert Pruett, Trustee
25
26
27
28

1 PROOF OF SERVICE

2 I, Lauren Kawano, am a citizen of the United States and employed in the City
3 and County of San Francisco. I am over the age of eighteen years and not a party to
4 the within entitled action. My business address is 57 Post Street, Suite 604, San
5 Francisco, California 94104.

6 August 23, 2011, I served the within document(s) entitled:

- 7 • ANSWER BY ROBERT PRUETT, TRUSTEE, TO COMPLAINT SEEKING
8 PROCEEDS OF SALE AT 4000 WESTLAKE BOULEVARD, #14, HOME
9 WOOD, CALIFORNIA 96141 FREE AND CLEAR OF ANY CLAIMS OR
10 INTERESTS OF THE SALYER DAUGHTER'S TRUSTS

11 on the parties in said action by delivering a true copy thereof as indicated below,
12 addressed as follows:

13 Kenneth W. Coleman, Esq.
14 Schnader Harrison Segal & Lewis LLP
15 One Montgomery Street, Suite 2200
16 San Francisco, California 94104-5501

17 U.S. Trustee Counsel
18 Judith C. Hotze
19 501 I Street #7-500
20 Sacramento, CA 95814

21 (X) BY MAIL: I placed such envelope(s) with postage thereon fully prepaid in
22 the United States Mail.

23 (
24 I declare under penalty of perjury that the foregoing is true and correct.

25 Dated: August 23, 2011

26 
27 _____
28 Lauren Kawano